

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Petition for Expedited Declaratory Ruling, or, in)
the Alternative, Petition for Rulemaking)
Regarding Environmental Processing Standards)
for Collocated Wireless Facilities)
)
)
)

ORDER

Adopted: July 9, 2002

Released: July 10, 2002

By the Deputy Chief, Commercial Wireless Division, Wireless Telecommunications Bureau:

1. By this order, the Commercial Wireless Division of the Wireless Telecommunications Bureau dismisses without prejudice the Personal Communications Industry Association's (PCIA) petition filed July 19, 2000 (Petition), requesting an expedited declaratory ruling, or, in the alternative, a rulemaking regarding environmental processing standards for collocated wireless facilities.

2. PCIA's Petition raises concerns regarding the Commission's interpretation of its environmental rules, in particular, Note 1 to Section 1.1306.¹ Among other things, Note 1 categorically excludes antennas mounted on existing buildings or towers (collocations) from routine environmental review under Section 1.1307(a), except for facilities that "may affect districts, sites, buildings, structures or objects . . . that are listed, or eligible for listing, in the National Register of Historic Places."² The

¹ 47 C.F.R. § 1.1306, Note 1:

The provisions of § 1.1307(a) of this part requiring the preparation of EAs [Environmental Assessments] do not encompass the mounting of antenna(s) on an existing building or antenna tower unless § 1.1307(a)(4) of this part is applicable. Such antennas are subject to § 1.1307(b) of this part and require EAs if their construction would result in human exposure to radiofrequency radiation in excess of the applicable health and safety guidelines cited in § 1.1307(b) of this part. The provisions of § 1.1307 (a) and (b) of this part do not encompass the installation of aerial wire or cable over existing aerial corridors of prior or permitted use of the underground installation of wire or cable along existing underground corridors of prior or permitted use, established by the applicant or others. The use of existing buildings, towers or corridors is an environmentally desirable alternative to the construction of new facilities and is encouraged. The provisions of § 1.1307(a) and (b) of this part do not encompass the construction of new submarine cable systems.

² 47 C.F.R. § 1.1307(a)(4). Except for collocations, Section 1.1307(a) also requires environmental review of facilities that are to be located in an officially designated wilderness area, an officially designated wildlife preserve, or a flood plain; that may affect listed threatened or endangered species or their critical habitats, or are likely to jeopardize proposed threatened or endangered species or destroy or adversely modify proposed critical habitats; that may affect Indian religious sites; that will involve significant change in surface features; or that will be located in residential neighborhoods and will be equipped with high intensity white lights. 47 C.F.R. § 1.1307(a) (1)-(3), (5)-(8).

Petition states that clarification of Note 1 is necessary because State Historic Preservation Officers (SHPOs) have differed widely in their interpretation of the scope of review of antenna collocations on existing towers, and because Commission staff have offered inconsistent interpretations of the rules.³

3. Since PCIA filed its Petition, the Commission has entered into a Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (Collocation Agreement) with the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers.⁴ This Collocation Agreement, which is binding on SHPOs, excludes antenna collocations from routine review under Section 106 of the National Historic Preservation Act (NHPA), 18 U.S.C. § 470f, subject to limited exceptions spelled out in the Collocation Agreement. Of particular relevance to the issues raised in PCIA's petition, the Collocation Agreement specifies that collocations on towers constructed on or before March 16, 2001, are excluded from review regardless of whether the underlying tower completed Section 106 review, unless an exception applies; whereas collocations on towers constructed after March 16, 2001, are not excluded from review if the underlying tower has not completed Section 106 review. In addition to the Collocation Agreement, Commission staff have issued a fact sheet explaining the application of the Collocation Agreement and its implications under the Commission's rules.⁵

4. In light of the Collocation Agreement and related developments, the underlying factual circumstances cited in PCIA's Petition have changed dramatically since the Petition was filed. We therefore dismiss the Petition without prejudice to PCIA's ability to file a new petition addressing any issues that may remain under current conditions.

5. Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), authority delegated by Section 0.331 of the Commission's rules, 47 C.F.R. § 0.331, and Sections 1.2 and 1.401 of the Commission's rules, 47 C.F.R. §§ 1.2, 1.401, that the Petition filed by the Personal Communications Industry Association on July 19, 2000, IS DISMISSED WITHOUT PREJUDICE.

FEDERAL COMMUNICATIONS COMMISSION

Jeffrey S. Steinberg
Deputy Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

³ See Petition at 10.

⁴ *Public Notice*, Wireless Telecommunications Bureau Announces Execution of Programmatic Agreement with Respect to Collocating Wireless Antennas on Existing Structures, DA 01-691 (rel. March 16, 2001).

⁵ *Public Notice*, The Wireless Telecommunications Bureau and Mass Media Bureau Announce the Release of a Fact Sheet Regarding the March 16, 2001 Antenna Collocation Programmatic Agreement, DA 02-28 (rel. Jan. 10, 2002).